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EXAMINER
PARISI, J

ART UNIT	PAPER NUMBER
2166	

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Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary	Application No.	Applicant(s)
	09/400,649	SZABO, ANDREW J.
	Examiner	Art Unit
	Joe Parisi	2166

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

1) ☒ Responsive to communication(s) filed on _02 August 2000_ .

2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) _29-73_ is/are pending in the application.

  4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) _29-73_ is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

9) ☒ The specification is objected to by the Examiner.

10) ☒ The drawing(s) filed on _21 September 1999_ is/are objected to by the Examiner.

11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.

12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

  a) ☐ All b) ☐ Some * c) ☐ None of the CERTIFIED copies of the priority documents have been:

  1. ☐ received.

  2. ☐ received in Application No. (Series Code / Serial Number) _____ .

  3. ☐ received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

  * See the attached detailed Office action for a list of the certified copies not received.

14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. & 119(e).

Attachment(s)

15) ☒ Notice of References Cited (PTO-892)

16) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)

17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _3_ .

18) ☒ Interview Summary (PTO-413) Paper No(s). _4. 5_

19) ☐ Notice of Informal Patent Application (PTO-152)

20) ☐ Other:

DETAILED ACTION

Status of Claims

1.   The claims currently pending before this office are numbers 29-73 as listed in applicant's

second preliminary amendment filed on August 2, 2000. Claims 1-28 are hereby canceled.

Claims 29-73 are reviewed in this Office Action.

Information Disclosure Statement

2.   Acknowledgement is made of the receipt of an Information Disclosure Statement

received by this Office on September 21, 1999.

Drawings

3.   The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they

do not include the following reference sign(s) mentioned in the description:

   a.   In figure 1, the video display, 4, is not shown. The video display, 4, is described

   in the specification on page 26, line 4. Correction is required.

4.   The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they

include the following reference sign(s) not mentioned in the description:

   a.   On page 26, in the description of the user entering registration data, no reference

   by number is made to Item 20 in Figure 2, "First Encounter Begin" tab. Reference to

   item 20 should be made on page 26, line 14 of the specification.

b.   On page 26, in the description of a returning user accessing registration data, no

reference by number is made to Item 40 in Figure 3, "Subsequent Encounter Begin" tab.

Reference to item 40 should be made on page 26, line 15 of the specification.

5.   The drawings are also objected to for reasons indicated on the attached Notice of

Draftperson's Patent Drawing Review. Correction is required.

Claim Rejections - 35 USC § 103

6.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

7.   Claims 29-31, and 37-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Shepley in United States Patent Number 5,478,989 (hereinafter "Shepley") and further in view of

Balintfy in United States Patent Number 3,801,778 (hereinafter "Balintfy").

With regard to claim 29, Shepley teaches a method for providing personalized nutrition

information to an individual (see column 4, lines 50-61). Shepley presents the records of the

nutrition information to the individual users by accepting personal data relating to an individual

(that is, the user characteristics of the user) input to the system. The user then inputs data

relating to the products they intend to purchase or consume. Shepley accesses pre-stored data

relating to these food products that the individual intends to purchase or consume (that is, based

on the classification of information relating to those food products, a set of records coinciding

with those products is defined). Shepley additionally then outputs nutritional information

pertinent to the data the individual entered (that is, Shepley presents the records to the user based

on the defined user characteristics).

Shepley, however, does not explicitly teach that economic parameters are also used to

further constrain the set of records to be output to the individual. However, Balintfy teaches a

computational device utilizing economic constraints while planning and constructing optimum

balanced menus and meals (see column 1, lines 5-10 and lines 28-34). In the system taught by

Balintfy, the user constructs an optimized menu by selecting from a set of foods containing

different caloric and nutrient content at various prices. The user selects the optimized mix by

selecting and substituting a variety of foods while conforming to a preset cost constraint (see

example starting at column 3, line 60 and claim 1). One skilled in the art would be motivated to

use a cost constraint as a condition in selecting a menu comprising various foods as a means to

economize food costs while providing meals balanced with nutrient, caloric, carbohydrate,

protein, fat and lipid, and fiber content. Therefore, it would have been obvious to one having

ordinary skill in the art, at the time the invention was made, to utilize the economic cost

parameters of Balintfy in the system of Shepley. As such, claim 29 is rejected.

With regard to claims 30 and 31, Shepley teaches that characteristic data of the individual

users are input into the system. Shepley further teaches that the user characteristic data

regarding the individual may include age, weight, gender, existence of dietary regulated

conditions such as high cholesterol level, high tri-glyceride level, diabetes, hyperglycemia, and

the existence of medical conditions such as heart disease, cancer and kidney disease (see

column 6, lines 2-8). These data as taught by Shepley comprises health and nutritional status

information. As such, claims 30 and 31 are rejected.

With regard to claims 37 and 38, Shepley teaches a method for providing

personalized nutrition information to an individual (see column 4, lines 50-61). Shepley presents

the records of the nutrition information to the individual users by accepting personal data relating

to an individual (that is, the user characteristics of the user) input to the system. The user then

inputs data relating to the products they intend to purchase or consume. Shepley accesses pre-

stored data relating to these food products that the individual intends to purchase or consume

(that is, based on the classification of information relating to those food products, a set of records

coinciding with those products is defined). Shepley additionally then outputs nutritional

information pertinent to the data the individual entered (that is, Shepley presents the records to

the user based on the defined user characteristics).

Shepley, however, does not explicitly teach that the user provides feedback to the

presented set of records and the records are then re-optimized to generate a revised presented set

of records. However, Balintfy teaches a reiteration of selected menu items based upon user

feedback (see column 3 starting at line 54 and column 4, lines 14-20). One of ordinary skill in

the art would be motivated to use the reiteration of Balintfy to allow users to select from records

that are equal based upon constraint criteria such as cost, but may be different based upon

subjective criteria held by the user. Therefore, it would have been obvious to one having

ordinary skill in the art, at the time the invention was made, to implement a reiteration and re-

optimization routine of Balintfy in the system of Shepley. As such, claims 37 and 38 are rejected.

With regard to claims 39-41, Shepley teaches a method for providing personalized nutrition information to an individual (see column 4, lines 50-61) while Balintfy teaches a reiteration and re-optimization routine (see column 3 starting at line 54 and column 4, lines 14-20). However, neither Shepley nor Balintfy teach the transaction of a sales or at least one presented set of records as in the instant claim 39 nor an electronic data transmission as in instant claim 40, nor an electronic data transmission carried over the Internet. The examiner respectfully submits that the sale and purchase of information in the form of data records (such as those sold by commercial databases such as DIALOG) is well known in the computer arts and by the public in general and takes Official Notice as such. One of ordinary skill in the art would be motivated to sell such records as they relate to the results of a calculated and optimized nutrition programs for greater economic benefits and efficiency than could be realized in a brick and mortar environment. Further, by implementing the data record transfers in an electronic format over the Internet, the optimization program may be updated, revised, and improved on the single server system much more efficiently than possible in a discrete computer environment where each user would require new software as changes to the optimization program were made. Therefore, it would have been obvious to one having ordinary skill in the art, at the time the invention was made, to utilize the sale of the optimization records using electronic data transmission both over the Internet and over a single client-server system. As such, claims 39-41 are rejected.

Claim 42 parallels the limitations found in claims 29 in apparatus format and is rejected for similar reasons.

With regard to claim 43, Shepley teaches the use of a graphical user interface for interaction between the user and the host system (column 8, lines 28-31). Therefore, claim 43 is rejected.

8.   Claims 32-34 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shepley in United States Patent Number 5,478,989 (hereinafter "Shepley") and Balintfy in United States Patent Number 3,801,778 (hereinafter "Balintfy") as applied to claims 29-31 above and further in view of Williams, III in United States Patent Number 5,704,350 (hereinafter "Williams").

With regard to claim 32, the combination of Shepley and Balintfy teaches all limitations with the exception of records of respective nutritional supplements. However, Williams teaches a nutritional microcomputer and method where the user may select, view and register into memory a daily ingestion of individual nutrient, mineral, and vitamin values, along with associated identifying information from associated databases of these supplements (see column 13, lines 57-67 and Column 14, lines 1-22). One skilled in the art would be motivated to enter supplements into the record system, in addition to foods consumed, to form a more complete picture of the total intake consumed by the user. With all elements eaten, that is foods, and

supplements, a more accurate assessment may be made as to the current nutritional condition of the user and thereby better assess any shortcomings or areas to focus upon as an optimal diet is determined. Therefore, it would have been obvious to one having ordinary skill in the art, at the time the invention was made, to employ the entering of supplement information as taught by Williams in the combination of Shepley and Balintfy. As such, claim 32 is rejected.

Further, with regard to claim 33, one would be motivated to list the prices of the various supplements to be entered so that a *total* nutritional cost may be determined. That is, the price of the food and the nutrients provided therein, plus the nutritional cost of the supplements is the total cost constraint of the diet and nutrition program. By incorporating cost information regarding the supplements, a more accurate representation of the total cost of the diet is determined. The user is then better able to make effective judgments regarding the selection of foods and supplements in order to determine an optimal mix of foods and supplements to achieve the prescribed diet. Therefore, it would have been obvious to one having ordinary skill in the art, at the time the invention was made, to include the price of the supplements in the combination system. As such, claim 33 is rejected.

With regard to claims 34 and 36, Shepley teaches a method for providing personalized nutritional information pertinent to the data the individual entered (see column 4, lines 50-61). Shepley presents the records of the nutrition information to the individual users by accepting personal data relating to an individual (that is, the user characteristics of the user) input to the system. The user then inputs data relating to the products they intend to purchase or consume.

Shepley accesses pre-stored data relating to these food products that the individual intends to

purchase or consume (that is, based on the classification of information relating to those food

products, a set of records coinciding with those products is defined). While Shepley does not

explicitly teach that the resulting records are sorted having an order dependent on the determined

economic parameters and the defined user characteristics such as risk tolerance, sorting database

records according to user-defined terms is well-known in the computer arts and by users of

commercially-available database and spreadsheet programs in general, and the examiner takes

Official Notice as such. One would be motivated to sort and list the set of records based upon

economic parameters to help the users economize their food and nutrition costs while balancing

their nutritional requirements. Additionally, one would be motivated to sort and list the set of

records based upon a risk tolerance to ensure that the user is apprised of any interactions between

components (e.g., vitamin interactions, et cetera) of the records. Since any nutrition or diet

program could have unexpected effects, one would be further motivated to sort and list the set of

records based upon a risk tolerance to ensure that the end user approves and consents to the

degree of risk associated with any possible interactions or contraindications of the foods or

supplements. Therefore, it would have been obvious to one having ordinary skill in the art, at the

time the invention was made, to sort the outputted records according to economic parameters and

the defined user characteristic such as risk tolerance. As such, claims 34 and 36 are rejected.

9.   Claims 35 and 67-73 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Shepley in United States Patent Number 5,478,989 (hereinafter "Shepley") and Balintfy in

United States Patent Number 3,801,778 (hereinafter "Balintfy") as applied to claims 29-31 above

and further in view of Ecer in United States Patent Number 5,412,564 (hereinafter "Ecer").

With regard to claim 35, the combination of Shepley and Balintfy teaches all limitations

with the exception that the user characteristic comprises a population grouping. Ecer, however,

teaches a system and method for diet control that groups dietary and nutritional information for a

population grouping such as a family (see column 7, lines 46-57) into cogent records. One

skilled in the art would be motivated to access and retrieve dietary and nutritional information

for a particular population grouping since there is typically a great deal of commonality among

the foods and supplements eaten by a particular group of people such as a family or a school

class. It would therefore be more efficient to enter the total consumed foods and supplements for

the group rather than to have multiple identical individual records. This grouping would save

time and effort and result in an overall picture of the nutritional information for that population

class. Therefore, it would have been obvious to one having ordinary skill in the art, at the time

the invention was made, to utilize the population-grouping feature of Ecer in the combination of

Shepley and Balintfy. Therefore, claim 35 is rejected.

With further regard to claims 67-73, Ecer teaches a system and method for a population

grouping such as a family (see column 7, lines 46-57). One skilled in the art would be motivated

to extend the population grouping beyond the closed ranks of family to other classes of users to

focus upon the common dietary and nutritional requirements that may be particular to that

individual class. For example, a class of Olympic gymnasts would all have relatively similar

nutritional and dietary needs, and a system with that class listed and the typical menus with

associated costs readily available would provide economic efficiency for those preparing the

foods as well as those tracking the progress of the athlete's training. The examiner respectfully

asserts that this type of commonality of food intake among groups is well known in the arts and

takes Official Notice as such. Another obvious example of a type of class of users is that

prevalent in a Weight Watcher's or other sanctioned weight loss program. The class of users

comprises those who desire to lose weight, and the food intake among this group is substantially

standardized. One skilled in the art would be further motivated to produce a set of responses to a

menu or nutrition inquiry based upon user and economic parameters as a means of streamlining

the database computation needed to perform the search query and to output the results. As such,

it would have been obvious to one of ordinary skill in the art, at the time the invention was made

to modify the combination of Shepley and Balintfy to utilize grouping features similar to those of

Ecer and then ranking the set of results according to these parameters. As such, claims 67-73 are

rejected.

10.   Claims 44-46, 52-59, and 61-64 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Shepley in United States Patent Number 5,478,989 (hereinafter "Shepley")

and Balintfy in United States Patent Number 3,801,778 (hereinafter "Balintfy") and further in

view of MacGregor et al. in United States Patent Number 5,396,621 (hereinafter "MacGregor").

With regard to claims 44 and 59, the combination of Shepley and Balintfy teaches all

limitations with the exception of the use of relevance parameters to define a set of records based

on a classification of information. MacGregor, however, teaches an apparatus and method for

sorting a set of information records in a spreadsheet or other tables of information (see column

10, lines 13-20). MacGregor teaches a system where up to four different sort keys may be

entered as means of ordering the data set (see column 10, lines 63-68 and Figure 6b). In this

manner, a variety of parameters may be used with which to sort the data set. In the MacGregor

system, the sorting parameters are specified, the sort is performed, and the output is displayed

(see column 12, lines 8-25). The fields in MacGregor are the relevance parameters as dictated by

the user. One skilled in the art would be motivated to use a second sorting parameter in addition

to the cost constraint taught by Balintfy as a means for determining a menu to ensure that the

foods or meals selected conform to other user requirements (such as minimum RDA levels, or

fiber content, or low sugar content, et cetera). One would be further motivated to use this sorting

scenario as a means to economize food costs while providing meals balanced with nutrient,

caloric, carbohydrate, protein, fat and lipid, and fiber content. The user selects the optimized mix

by selecting and substituting a variety of foods while conforming to a preset cost constraint (see

Balintfy example starting at column 3, line 60 and claim 1). Therefore, it would have been

obvious to one having ordinary skill in the art, at the time the invention was made, to utilize the

sorting mechanism of MacGregor in the combination of Balintfy and Shepley. As such, claims

44 and 59 are rejected.

With regard to claims 45 and 46, Shepley teaches that characteristic data of the individual

users are input into the system. Shepley further teaches that the user characteristic data

regarding the individual may include age, weight, gender, existence of dietary regulated

conditions such as high cholesterol level, high tri-glyceride level, diabetes, hyperglycemia, and

the existence of medical conditions such as heart disease, cancer and kidney disease (see

column 6, lines 2-8). These data as taught by Shepley comprises health and nutritional status

information. As such, claims 45 and 46 are rejected.

With regard to claims 52, 53, 61, and 62, Shepley teaches a method for providing

personalized nutrition information to an individual (see column 4, lines 50-61). Shepley presents

the records of the nutrition information to the individual users by accepting personal data relating

to an individual (that is, the user characteristics of the user) input to the system. The user then

inputs data relating to the products they intend to purchase or consume. Shepley accesses pre-

stored data relating to these food products that the individual intends to purchase or consume

(that is, based on the classification of information relating to those food products, a set of records

coinciding with those products is defined). Shepley additionally then outputs nutritional

information pertinent to the data the individual entered (that is, Shepley presents the records to

the user based on the defined user characteristics).

Shepley, however, does not explicitly teach that the user provides feedback to the

presented set of records and the records are then re-optimized to generate a revised presented set

of records. However, Balintfy teaches a reiteration of selected menu items based upon user

feedback (see column 3 starting at line 54 and column 4, lines 14-20). One of ordinary skill in

the art would be motivated to use the reiteration of Balintfy to allow users to select from records

that are equal based upon constraint criteria such as cost, but may be different based upon

subjective criteria held by the user. Therefore, it would have been obvious to one having

ordinary skill in the art, at the time the invention was made, to implement a reiteration and re-

optimization routine of Balintfy in the system of Shepley. As such, claims 52, 53, 61, and 62 are rejected.

With regard to claims 54-56, and 63-64, Shepley teaches a method for providing personalized nutrition information to an individual (see column 4, lines 50-61) while Balintfy teaches a reiteration and re-optimization routine (see column 3 starting at line 54 and column 4, lines 14-20). However, neither Shepley nor Balintfy teach the transaction of a sales or at least one presented set of records as in the instant claim 39 nor an electronic data transmission as in instant claim 40, nor an electronic data transmission carried over the Internet. The examiner respectfully submits that the sale and purchase of information in the form of data records (such as those sold by commercial databases such as DIALOG) is well known in the computer arts and by the public in general and takes Official Notice as such. One of ordinary skill in the art would be motivated to sell such records as they relate to the results of a calculated and optimized nutrition programs for greater economic benefits and efficiency than could be realized in a brick and mortar environment. Further, by implementing the data record transfers in an electronic format over the Internet, the optimization program may be updated, revised, and improved on the single server system much more efficiently than possible in a discrete computer environment where each user would require new software as changes to the optimization program were made. Therefore, it would have been obvious to one having ordinary skill in the art, at the time the invention was made, to utilize the sale of the optimization records using electronic data transmission both over the Internet and over a single client-server system. As such, claims 54-56, and 63-64 are rejected.

Claims 57 parallels the limitations found in claim 44 in apparatus format and is rejected

for similar reasons.

With regard to claim 58, Shepley teaches the use of a graphical user interface for

interaction between the user and the host system (column 8, lines 28-31). Therefore, claim 58 is

rejected.

11.   Claims 47-49 and 51 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Shepley in United States Patent Number 5,478,989 (hereinafter "Shepley") and Balintfy in

United States Patent Number 3,801,778 (hereinafter "Balintfy") and MacGregor et al. in United

States Patent Number 5,396,621 (hereinafter "MacGregor") as applied to claims 44-46 above and

further in view of Williams, III in United States Patent Number 5,704,350 (hereinafter

"Williams").

With regard to claim 47, the combination of Shepley, Balintfy, and MacGregor teaches

all limitations with the exception of records of respective nutritional supplements. However,

Williams teaches a nutritional microcomputer and method where the user may select, view and

register into memory a daily ingestion of individual nutrient, mineral, and vitamin values, along

with associated identifying information from associated databases of these supplements (see

column 13, lines 57-67 and Column 14, lines 1-22). One skilled in the art would be motivated to

enter supplements into the record system, in addition to foods consumed, to form a more

complete picture of the total intake consumed by the user. With all elements eaten, that is foods,

and supplements, a more accurate assessment may be made as to the current nutritional condition

of the user and thereby better assess any shortcomings or areas to focus upon as an optimal diet

is determined. Therefore, it would have been obvious to one having ordinary skill in the art, at

the time the invention was made, to employ the entering of supplement information as taught by

Williams in the combination of Shepley, Balintfy and MacGregor. As such, claim 47 is rejected.

Further, with regard to claim 48, one would be motivated to list the prices of the various

supplements to be entered so that a *total* nutritional cost may be determined. That is, the price of

the food and the nutrients provided therein, plus the nutritional cost of the supplements is the

total cost constraint of the diet and nutrition program. By incorporating cost information

regarding the supplements, a more accurate representation of the total cost of the diet is

determined. The user is then better able to make effective judgments regarding the selection of

foods and supplements in order to determine an optimal mix of foods and supplements to achieve

the prescribed diet. Therefore, it would have been obvious to one having ordinary skill in the art,

at the time the invention was made, to include the price of the supplements in the combination

system. As such, claim 48 is rejected.

With regard to claims 49 and 51, Shepley teaches a method for providing personalized

nutritional information pertinent to the data the individual entered (see column 4, lines 50-61).

Shepley presents the records of the nutrition information to the individual users by accepting

personal data relating to an individual (that is, the user characteristics of the user) input to the

system. The user then inputs data relating to the products they intend to purchase or consume.

Shepley accesses pre-stored data relating to these food products that the individual intends to

purchase or consume (that is, based on the classification of information relating to those food

products, a set of records coinciding with those products is defined). While Shepley does not

explicitly teach that the resulting records are sorted having an order dependent on the determined

economic parameters and the defined user characteristics such as risk tolerance, sorting database

records according to user-defined terms is well-known in the computer arts and by users of

commercially-available database and spreadsheet programs in general, and the examiner takes

Official Notice as such. One would be motivated to sort and list the set of records based upon

economic parameters to help the users economize their food and nutrition costs while balancing

their nutritional requirements. Additionally, one would be motivated to sort and list the set of

records based upon a risk tolerance to ensure that the user is apprised of any interactions between

components (e.g., vitamin interactions, et cetera) of the records. Since any nutrition or diet

program could have unexpected effects, one would be further motivated to sort and list the set of

records based upon a risk tolerance to ensure that the end user approves and consents to the

degree of risk associated with any possible interactions or contraindications of the foods or

supplements. Therefore, it would have been obvious to one having ordinary skill in the art, at the

time the invention was made, to sort the outputted records according to economic parameters and

the defined user characteristic such as risk tolerance. As such, claims 49 and 51 are rejected.

12.   Claims 50, 60, 65, and 66 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Shepley in United States Patent Number 5,478,989 (hereinafter "Shepley") and Balintfy in

United States Patent Number 3,801,778 (hereinafter "Balintfy") and MacGregor et al. in United

States Patent Number 5,396,621 (hereinafter "MacGregor") as applied to claim 44 above and

further in view of Ecer in United States Patent Number 5,412,564 (hereinafter "Ecer").

With regard to claim 50, the combination of Shepley, Balintfy, and MacGregor teaches

all limitations with the exception that the user characteristic comprises a population grouping.

Ecer, however, teaches a system and method for diet control that groups dietary and nutritional

information for a population grouping such as a family (see column 7, lines 46-57) into cogent

records. One skilled in the art would be motivated to access and retrieve dietary and nutritional

information for a particular population grouping since there is typically a great deal of

commonality among the foods and supplements eaten by a particular group of people such as a

family or a school class. It would therefore be more efficient to enter the total consumed foods

and supplements for the group rather than to have multiple identical individual records. This

grouping would save time and effort and result in an overall picture of the nutritional information

for that population class. Therefore, it would have been obvious to one having ordinary skill in

the art, at the time the invention was made, to utilize the population grouping feature of Ecer in

the combination of Shepley, Balintfy, and MacGregor. Therefore, claims 50 and 60 are rejected.

Claims 65 parallels the limitations found in claim 59 in apparatus format and is rejected

for similar reasons.

With regard to claim 66, Shepley teaches the use of a GUI for interaction between the

user and the host system (column 8, lines 28-31). Therefore, claim 66 is rejected.

Prior Art of Record

13.   The prior art made of record and not relied upon is considered pertinent to applicant's

disclosure.

a.   Warner, Jack. "Diet Software Can Help Burn Calories," *San Jose Mercury News*. August

30, 1992. p. 7F. Included as DIALOG File 634. 06743066. A discussion of three diet

tracking software programs is included along with examples of entering profile information

used to construct menus.

b.   Young, Lisa. "New Year, New You." *Compute*. January 1994. p. 72. The article

discusses computer programs geared toward diets, menu planning, and nutrition tracking.

User characteristics and profile information used to tailor the menu composition is taught.

c.   Lee, Robert et al. "Comparison of Eight Microcomputer Dietary Analysis Programs with

the USDA Nutrient Data Base for Standard Reference," *Journal of the American Dietetic

Association*. August 1995. p. 858. An extensive discussion of dietary analysis is evident

with focus upon nutrient analysis and supplement recommendations.

d.   United States Patent Number 5,672,154 (Sillén) 30 September 1997. A method and

apparatus for giving patients individualized situation-dependent medication advice is taught.

The method is founded on knowledge-based (e.g., fuzzy logic, neural networks) computer

technology and calculates particular results based upon the individual user inputs.

e.   United States Patent Number 5,572,421 (Altman et al.) 05 November 1996. A portable

medical questionnaire system is taught where patients enter conditions and status and the

answer evaluation software formulates, ranks, and presents answers.

f.   United States Patent Number 5,195,172 (Elad et al.) 16 March 1993. A system and method for representing and solving numeric and symbolic problems is taught where database-type tables are constructed and data is sorted, ranked, and presented with a scoring system of relevance by the computer system.

g.   United States Patent Number 4,992,942 (Bauerle et al.) 12 February 1991. An apparatus and method for controlling a nutrient control system is presented where initial data such as characteristics of the subjects is entered and thereby the computer selects the amounts of specific nutrients to be used in the nourishment application. This general system uses a specific example of nourishing plants.

Information Regarding Communication With the PTO

14.   Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joe Parisi whose telephone number is 703-308-7808. The examiner can normally be reached on Monday through Thursday from 7am to 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz, can be reached on (703) 305-9643. The fax phone number for the organization where this application or proceeding is assigned is 703-308-9051.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-5140.

Joe Parisi

January 8, 2001

TARIQ R. HAFIZ
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